IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1888 of 2003
To
FIRST APPEAL No. 1891 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DY.GENERAL MANAGER
Versus
PATEL LALUBHAI GANDALAL AND OTHERS

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Appearance :
MS KJ BRAHMBHATT for the appellant
Respondent No.1 – Served
Mr ND Gohil, AGP for respondent No.2

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 07/08/2006

COMMON ORAL JUDGMENT

Since common point is involved in these appeals, all these appeals are disposed of by way of this common judgment.

These appeals are filed on behalf of ONGC, which is acquiring body under Section 54 of the Land Acquisition Act read with Section 94 of the Civil Procedure Code. By filing these appeals the appellants have challenged the judgment and order passed by the Reference Court in Land Reference Case No.371 of 1997 as well as Reference Case Nos.1323 of 1997 to 1325 of 1997. By the impugned judgment and order the learned Judge allowed all the References partly and granted additional compensation by which the appellant is directed to pay additional compensation to the claimants at the rate of Rs.15.00 per square meter over and above the amount of compensation awarded by the Special Land Acquisition Officer.

On behalf of the appellant – Commission certain agricultural lands were sought to be acquired for the purpose of drilling project and for that purpose certain agricultural lands of village Gamanpura wee sought to be acquired. The Notification under Section 4(1) of the Act was published on 31st May 1994. Thereafter, Section 6 Notification was issued on 15th April 1995 and ultimately award was declared on 30th March 1996. By the aforesaid award the Special Land Acquisition Officer awarded Rs.5 per square meter for irrigated lands and Rs.1.65 per square meter for non-irrigated lands. According to the claimants, Rs.30 was the proper valuation of the lands in question. They, therefore, requested for reference under Section 18 of the Act. The Special Land Acquisition Officer thereafter made a reference to the District Court. The same was decided by the Extra Assistant Judge, Mehsana who by his

impugned judgment and order dated 15.12.2001 partly allowed the said references by fixing the value of the land at Rs.20 per square meter and accordingly granted additional compensation of Rs.15 per square meter.

By filing these appeals the appellant has challenged the aforesaid judgment and award.

Learned advocate Ms Kalpana Brahmbhatt submitted that the learned Judge has gravely erred in not relying upon the sale instances at Exhibit 23 and 28 which reflects the correct value of the land and as per the same the appropriate value of the land is Rs.5 and accordingly the Special Land Acquisition Officer has rightly granted the compensation at the rate of Rs.5 per square meter.

I have heard learned advocate Ms Brahmbhatt for the appellant. I have also gone through the record and proceedings. It is true that the learned Judge has not considered Exhibit 23 and 28 for which no appropriate reasons are given. The learned Judge has not given proper reasons for discarding the said documents as the same are of the very same village itself. So far as Exhibit 28 is concerned, it is of the same village and it deals with the transaction of 4.9.1995. So far as Exhibit 23 is concerned, it is pertaining to sale instance of 5.11.1992. The notification under Section 4 was issued on 31.5.1994. The learned Judge has gone on guesswork and by considering the nature of the crop fixed the valuation at Rs.20 per square meter. The reasoning of the learned Judge for discarding the said document is not very sound.

However, the additional amount which is required to be payable to the claimants in these appeals is a very small amount as in none of the cases the additional amount awarded exceeds Rs.21,000, which is evident from the following table:-

Sr No	LAR No.	Addl.Amt. Of Comensation
1	37/1997	21,000
2	1323/1997	1,530
3	1324/1997	1,200
4	1325/1997	10,200

In that view of the matter, the refrerence is required to be made to various judgments of this Court. The learned Single Judge of this Court in First Appeal No.1117 of 2003 has observed in paragraphs nos.3 and 4 as under:-

> *"3. It may be noted that learned single Judge of this Court as well as a Division Bench of this Court in number of matters have dismissed appeals filed by the appellant challenging the awards of the reference courts on the ground of smallness of the amount. The Division Bench of this Court (Coram: M.H. Kadri & C.K. Buch, JJ.) in First Appeal Nos.6765 of 1999 to 6804 of 1999 vide judgment dated 29.3.2000 has considered an amount of Rs.25,500/- awarded to the claimant, without considering other statutory benefits, as small amount. In the said judgment it has been observed that it is the consistent practice which is followed by various Division Benches of this Court that wherein claim involved in the Land References cases is less than Rs.35,000/-, appeal should be dismissed on the ground that it involves petty claim.*
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> *4. Applying the principles laid down by the Division Bench of this Court in the judgment recorded in First*

Appeal Nos.6765 of 1999 to 6804 of 1999 to the facts of the present case, in the instant case, the original amount awarded to the respondent is Rs.11,425/- plus statutory benefits, which comes in all to Rs.16,223.50 and, therefore, this amount being a small amount, the appeal deserves to be dismissed on the ground of petty claim."

It is not in dispute that the additional amount for which the appeal is filed in the Court is small amount and considering the decision of this Court referred to above these appeal deserve to be dismissed.

Considering the aforesaid aspect of the matter, I do not find any substance in this group of first appeals. Hence, all these appeals are dismissed with no order as to costs. Record and proceedings be sent to to the lower court forthwith.

(***P.B.Majmudar, J.***)

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